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SENATE BILL NO. 844

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on February 12, 2018)

(Patron Prior to Substitute—Senator Dunnavant)

A BILL to amend the Code of Virginia by adding a section numbered 38.2-3446.1, relating to health carriers; conducting certain insurance activities; active participation in health benefit exchange required; short-term policies.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 38.2-3446.1 as follows:

§ 38.2-3446.1. *Participation in health benefit exchange a condition to conducting certain business.*

A. A health carrier that (i) sells or offers for sale group health benefit plans in the Commonwealth and (ii) does not offer, throughout every locality in the Commonwealth in which it engages in the business of insurance, health benefit plans for sale in the individual market through the health benefit exchange operated in the Commonwealth pursuant to the PPACA in any period from and after the date that the first open enrollment period for the exchange commences after July 1, 2018, shall not be eligible during any such period to enter into or renew any contract or agreement with the Commonwealth or any agency or political subdivision thereof related to the administration, sponsorship, sale, offering, or provision of services or benefits under any managed care program conducted by the Department of Medical Assistance Services as a Medicaid managed care organization that furnishes medical assistance services pursuant to Chapter 10 (§ 32.1-323 et seq.) of Title 32.1.

B. The provisions of subsection A shall not apply to any health carrier that as of July 1, 2018, is prohibited pursuant to the PPACA from selling or offering for sale health benefit plans in any market in or area of the Commonwealth as a result of previously withdrawing from offering health benefit plans in a health benefits market in the Commonwealth (a lock-out period), provided that the provisions of subsection A shall apply to such a health carrier following the health carrier's lock-out period.

2. § 1. That notwithstanding any provision of Title 38.2 of the Code of Virginia to the contrary, each health carrier, as defined in § 38.2-3438 of the Code of Virginia, shall be authorized to sell or offer for sale in the Commonwealth short-term health plans.

§ 2. As used in this enactment, "short-term health plan" means a health benefit plan, as defined in § 38.2-3438, with a duration that does not exceed 364 days, regardless of whether the health benefit plan is renewable.

§ 3. The coverage provided to an individual under a short-term health plan shall satisfy any requirement of law or regulation that an individual obtain or maintain health insurance coverage.

§ 4. Any short-term health plan sold or offered for sale in the Commonwealth shall be exempt from:

a. The provisions of Article 6 (§ 38.2-3438 et seq.) of Chapter 34 of Title 38.2 of the Code of Virginia;

b. Any provision of Title 38.2 of the Code of Virginia that provides an exemption for a short-term policy, contract, or plan, regardless of whether such provision states that the exemption applies to a short-term policy, contract, or plan with any stated duration that is fewer than 364 days; and

c. Each of the mandated health insurance benefits set forth in Article 2 (§ 38.2-3408 et seq.) of Chapter 34 of Title 38.2 the Code of Virginia, provided, however, that in lieu of any requirement that a health carrier provide coverage for a mandated benefit, the health carrier shall offer and make available the coverage for such benefit under the short-term health plan.

§ 5. The provisions of this enactment shall be contingent upon the promulgation of federal regulations that are promulgated pursuant to Presidential Executive Order 13813 dated October 12, 2017, that expand the availability of short-term, limited duration insurance by allowing short-term plans to have a duration not exceeding 364 days.